

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

**CORNELE A. OVERSTREET,
Regional Director, Region 28 of the
National Labor Relations Board,
For and On Behalf of the
NATIONAL LABOR RELATIONS BOARD,**

Petitioner,

vs.

No. CIV 12-240-JAP-KBM

ALBERTSON'S, LLC,

Respondent.

ORDER FOR TEMPORARY INJUNCTIVE RELIEF

Cornele A. Overstreet, Regional Director for Region 28 of the National Labor Relations Board (Board), filed a Petition for a temporary injunction¹ on behalf of the Board under the authority of Section 10(j) of the National Labor Relations Act (Act), pending the final disposition of the unfair labor practice proceedings before the Board. The Court held a hearing on March 15, 2012, at which attorneys Sophia Alonso and David Garza represented the Board, and attorneys Thomas Stahl and Jeffrey Lowry represented Albertson's. *See* Doc. No. 22. The

¹ On March 8, 2012, Petitioner filed a PETITION OF THE NATIONAL LABOR RELATIONS BOARD FOR TEMPORARY INJUNCTION UNDER SECTION 10(j) OF THE NATIONAL LABOR RELATIONS ACT (Doc. No. 1) (Petition) and a MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF PETITION FOR INJUNCTION UNDER SECTION 10(j) OF THE NATIONAL LABOR RELATIONS ACT (Doc. No. 1-4). On March 30, 2012, Albertson's filed RESPONDENT ALBERTSON'S LLC'S RESPONSE IN OPPOSITION TO PETITION OF THE NATIONAL LABOR RELATIONS BOARD FOR TEMPORARY INJUNCTION UNDER SECTION 10(j) OF THE NATIONAL LABOR RELATIONS ACT (Doc. No. 31).

Court held a second hearing on April 12, 2012, at which attorneys Sophia Alonso and David Garza represented the Board, and attorneys Thomas Stahl and Glen Beard represented Albertson's. *See* Doc. No. 37. The Court has considered the administrative record, including the decision of Administrative Law Judge William Schmidt and the affidavits submitted by the parties, as well as the pleadings, briefs, and arguments of counsel.

Contemporaneously with this Order, the Court entered Findings of Fact and Conclusions of Law, finding that the Board has shown reasonable cause to believe that Albertson's committed the following unfair labor practices at Store 917 in violation of Sections 8(a)(1) and 8(a)(3) of the Act: (1) suspending and terminating Yvonne Martinez's employment; (2) engaging in unlawful surveillance of union activity and creating the impression of surveillance of union activity; (3) soliciting employee complaints and grievances during the union organizing campaign; and (4) threatening employees with discharge and other, unspecified reprisals for engaging in union activity. The Court has concluded that temporary injunctive relief addressing these alleged unfair labor practices is just and proper under the circumstances. Accordingly, the Court has granted the Board's Petition, as modified on May 29, 2012, and the Court now orders the following temporary injunctive relief.

IT IS ORDERED THAT:

- (1) Albertson's must not solicit employee complaints or grievances in order to discourage employees from supporting the United Food and Commercial Workers Union, Local 1564, or any other labor organization.
- (2) Albertson's must not conduct surveillance of employees' union or protected concerted activities or create the impression that employees' union or protected activities are under surveillance.

- (3) Albertson's must not implicitly threaten any employee by telling the employee that Albertson's is trying to make the employee quit his or her job.
- (4) Albertson's must not suspend or discharge any employee because of the employee's union sympathies, activities, or support.
- (5) Albertson's must not in any like or related manner interfere with, restrain, or coerce employees in the exercise of the rights guaranteed to them by Section 7 of the Act.
- (6) Within seven (7) calendar days of the entry of this Order, Albertson's must offer Yvonne Martinez immediate interim reinstatement to her former job, at her previous wages and other terms or conditions of employment, or if her former job no longer exists, to a substantially equivalent position, without prejudice to her seniority or any other rights or privileges she previously enjoyed.
- (7) Within seven (7) calendar days of the entry of this Order, Albertson's must post copies of this Order at Albertson's Store 917, both in English and in other languages as necessary to ensure effective communication to employees, in all locations where notices to employees are normally posted. This Order must remain posted until the Board issues a final order.
- (8) Within fourteen (14) calendar days of the entry of this Order, Albertson's must file an affidavit of compliance with the Court, describing with specificity the actions taken by Albertson's to comply with this order.



UNITED STATES DISTRICT COURT JUDGE